



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

Lexmark International, Inc.
Intellectual Property Law Department
740 West New Circle Road
Bldg. 082-1
Lexington, KY 40550-0999

COPY MAILED

MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Joseph D. Beaven, et al. :
Application No. 09/802,577 :
Filed: March 8, 2001 :
Attorney Docket No. LE9-00-081 :
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on March 30, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on July 1, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Theodore D. Lienesch appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Mr. Lienesch desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Additionally, it is not apparent whether Mr. Lienesch was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in submitting a reply to the outstanding office action under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Furthermore, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies slightly from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being forwarded to Technology Center 2100.



Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy